

In a letter dated January 4, 2002, Assistant Director Kenneth J. Hursh notified the parties that the Director had temporarily assigned the case to him for hearing and decision on claimant's Motion to Recuse Administrative Law Judge Bruce Moore. The Assistant Director held a hearing on claimant's recusal motion on February 6 2002, in Wichita, Kansas. Thereafter, on February 7, 2002, the Assistant Director entered a Final Order and denied claimant's recusal request. The Assistant Director concluded that the allegations made against the ALJ, if true, would not cause a reasonable person to believe that the ALJ would not afford claimant a fair hearing or claimant's attorney fair treatment in future proceedings.

Claimant and claimant's attorney contend that the Assistant Director erred. In their brief to the Appeals Board (Board) dated March 21, 2002, they argued the facts cited in the affidavits filed in this claim would cause a reasonable person to doubt the ALJ's impartiality in dealings with claimant's attorney. Accordingly, claimant and claimant's attorney request the Board to issue an order that the ALJ be recused from this case and also issue a blanket recusal to prevent the ALJ from adjudicating any proceedings in which claimant's attorney appears.

Additionally, while this appeal was pending before the Board, the parties settled this claim on June 3, 2002, before Special Administrative Law Judge Jeffrey Syrios in Wichita, Kansas. The claimant accepted a strict compromise lump sum settlement and waived all of her rights or remedies against the respondent and its insurance carrier she may have had under the Workers Compensation Act in this case. But the parties agreed to leave open the issue of the payment of court reporter costs of \$594.22 that were assessed by the ALJ against the claimant in the ALJ's May 1, 2001, Memorandum Decision on claimant's recusal motion.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the February 6, 2002, hearing transcript and considering the claimant's brief, the Board makes the following findings and conclusions:

Because of the June 3, 2002, settlement entered into by the parties, the Board concludes the request for an order preventing the ALJ from participating in this claim is moot. The Board finds this claim has been concluded because claimant entered into a lump sum settlement, giving up any and all claims against respondent for this accident.

As noted above, at the June 3, 2002, settlement hearing the claimant preserved the issue of the court reporter costs in the amount of \$594.22 that were assessed against the claimant by the ALJ in his May 1, 2001, Memorandum Decision on claimant's recusal motion. That issue was not raised by the claimant before the Assistant Director or before the Board. Therefore, the Board finds that issue is not before the Board on appeal and will not be addressed in this Order.

**WHEREFORE**, the Board finds and concludes that claimant's appeal is dismissed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of June 2002.

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BOARD MEMBER

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BOARD MEMBER

c:     Roger A. Riedmiller, Attorney for Claimant  
       Kathleen Wohlgemuth, Attorney for Respondent  
       Kenneth J. Hursh, Workers Compensation, Assistant Director  
       Philip S. Harness, Workers Compensation Director